IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 266 of 1986

For Approval and Signature: sd/-

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GLOBE TRANSPORT CORPORATION

Versus

SHREEJI TRANSPORT & ITS OWNER PRAVINCHANDRA N DESAI

Appearance:

1. Appeal from Order No. 266 of 1986

MR SN SOPARKAR for Petitioner No. 1

NOTICE UNSERVED for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 18/10/2001

ORAL JUDGEMENT

1. Learned Counsel Shri R.K.Kothari for Shri S.N. Soparkar for the appellant - original defendant M/s. Globe Transport Corporation stated at the Bar that in

this case by giving registered Notice to the appellant Shri Soparkar has retired from this matter. Not only that, the appellant had taken away the papers from him long back. He, therefore, submitted that appropriate order be passed in the matter. He also places on record the copy of letter dated 11.5.2001 written by Shri Soparkar addressed to the appellant M/s. Globe Transport Corporation which is ordered to be taken on the record.

2. The present Appeal is arising out of the impugned order dated 30.12.1985 passed by the learned Judge below Ex.43 whereby the learned Judge rejected the Application filed by the present Appellant for setting aside the ex-parte decree passed in the Suit and restoring the said Suit.

3. This Appeal was straightway admitted on 14.11.1986, but so far the appellant Corporation has not taken any steps to serve the sole respondent - original plaintiff.

4. As stated earlier, Shri Soparkar has already withdrawn his appearance and the appellant has also taken away the papers from him and thereafter it has not made any alternative arrangement to appear in this matter through any other lawyer. It seems that the appellant has lost all interest in the matter after filing this Appeal.

5. In ordinary circumstances this Court would have issued the Notice to the appellant - Corporation to make alternative arrangement but it would be exercised in futility and, therefore, no notice is issued and the Appeal is disposed of because it is filed against the impugned order which was passed almost before 16 years from today by the trial Court. Even otherwise I do not find any substance or merit in the matter and the impugned order passed by the trial Court is not required to be interfered after lapse of almost 16 years.

In view of above discussion this appeal is dismissed.

sd/-

Date : October 18, 2001 (B.J.Shethna, J.)

sas